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FROM : BRUSSELS 183 February 15,1950

REF : Embtel 166, February 2, 1950

SUBJECT : RENEWED ATTACK BY SPAAK ON LEOPOLD III: KING'S ALLEGED DISREGARD OF CONSTITUTION.

EXCISE (OVER)

RECD FEB 21

EUR INDEX

ACTION: EUR

INFO: DCR OLI L

Continuing his series of articles against Leopold III, the former Prime Minister, Paul-Henri Spaak, in Le Peuple for February 9 (published on the preceding day) accuses the King of trampling on the Belgian Constitution both in the manner of his marriage and in the pre-nuptial agreement or declaration in which he stated that his wife renounced any pretention to be Queen of the Belgians and that any son born of their marriage would not have rights to the throne.

Mr. Spaak dwells [redacted] on the fact that the civil marriage of the King took place on December 6, 1941, whereas the religious marriage occurred some months earlier [redacted] Mr. Spaak confines himself to the constitutional aspects of the case. He says that the King, by celebrating the civil marriage after the religious marriage, acted contrary to Article 16 of the Belgian Constitution "and that he involved the Cardinal-Archbishop of Malines in committing a misdemeanor punishable under Article 267 of the Penal Code".

Article 16 of the Constitution provides, among other things, that "civil marriage shall always precede the religious ceremony, except in cases to be established by law if found necessary". Article 267 of the Penal Code reads as follows (in translation):

> "Any minister of the gospel who proceeds to the nuptial benediction before the celebration of the civil marriage shall be punished by a fine of from 50 to 500 francs.

RMcClintock:vlh 2/10/50

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"This provision shall not be applicable provided that one of the persons who has received the nuptial benediction should be in danger of death and for whom any delay in carrying out that ceremony would have the effect of rendering it impossible.

"In case of recurred infractions of the same character the culprit can be condemned to imprisonment of from one week to three months."

As for the renunciation of any claim to be Queen of the Belgians, which Leopold III made in the name of his wife, Mr. Spaak comments [redacted] that she could not give away the title of Queen unless she had already possessed it. He stresses that in his belief "the personal declaration of the King has no value whatever and we are today because of him in the sufficiently ridiculous situation of not knowing if Belgium has a Queen or hasn't". B-1

As for the renunciation of any right to the throne which Leopold made on behalf of any son which should be born to him and the Princess de Réthy, Mr. Spaak points out that the King cannot by his personal statement set aside the provisions of Article 60 of the Constitution, which provides that heirs to the throne shall be the direct descendants, natural and legitimate, of Leopold I from male to male in the order of primogeniture. Since Prince Alexander was a direct descendant of Leopold I and was both a natural and legitimate son, no one, not even the King, his father, had the right to waive his claim to be an eventual heir to the throne of Belgium.

Mr. Spaak concludes his article by saying that at least the present Belgian Government should have clarified the question which was posed by the Liberal interpellation as reported in the Embassy's telegram under reference. This duty was all the more incumbent on the government, in Mr. Spaak's opinion, before the popular consultation which was approved by Parliament on February 8. Mr. Spaak [redacted] demands, "After all, if they ask us to say whether the King should or should not remount the throne, at least we should know who he will bring back with him". B-1

Robert McClintock
First Secretary of Embassy

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